

Open Shores of Southwest Florida, Inc.

Research Memorandum: Ordinance 25-16 and the Missing Citation

Prepared June 2026 — Based on Lee County and State Public Records

Field Documentation Updated June 4, 2026 | GIS Dataset Added June 15, 2026

The Question

When Lee County adopted Ordinance 25-16 in August 2025, converting most of Boca Grande's numbered Gulf-side beach access streets to residential permit-only parking zones, it did not reference or address Ordinance 18-12 — the County's current Parks and Recreation Ordinance — anywhere in the ordinance, the supporting Agenda Item Reports, the BCC hearing transcript, or the official state filing.

This memorandum asks and documents why. The answer is in Lee County's own records.

This analysis does not assert that Ordinance 25-16 is invalid in its entirety. It may continue to govern downtown Boca Grande, Gilchrist Avenue, East Railroad Avenue, and other areas where parking regulation is not tied to County-recognized beach-access facilities. The question here is specific: why were fourteen County-classified beach access facilities converted to permit-only without any reference to the parks ordinance that governs them?

The Conflict: What Ordinance 18-12 Requires

Ordinance 18-12 is Lee County's current Parks and Recreation Ordinance, adopted March 2018. It replaced and fully repealed Ordinance 06-26. Its provisions create a direct conflict with what 25-16 does at the numbered beach access streets — a conflict that does not appear anywhere in the 25-16 record.

- Section 4.1 requires that parks be open to the public every day of the year.
- Section 4.3 prohibits issuing a permit where the proposed activity or use would restrict or prohibit the general public's use of the park. A residential permit-only system restricts general public use. That language creates a direct conflict with 25-16 that the County did not address in the ordinance, its supporting documents, or the BCC hearing transcript.
- Section 4.7 requires fees to be established through the Administrative Code process. 25-16 did not follow that process.
- Section 3.1 defines parks broadly to include beaches, roadways, abutting lands, adjacent littoral waters, and pertinent rights-of-way under County jurisdiction, control, or administration.

- Section XVI contains a conflicts clause: whenever Ordinance 18-12 conflicts with another ordinance, the most restrictive requirements apply. Ordinance 25-16 Section Two contains the identical clause. By both ordinances' own terms, where they conflict, 18-12's public access standard controls.
- Lee County Parks & Recreation publishes a Beach Park User Group Information Sheet on its own website stating that beach parks are first-come, first-served, that no space, shelter, or parking may be reserved, and that users must abide by Ordinance 18-12.

If the numbered beach access streets are County-recognized park facilities — and Lee County's own records say they are — then 18-12 governs them. And 18-12 prohibits what 25-16 does.

The Evidence: Lee County's Own Records

Every element of the following analysis is sourced from Lee County's own public records, official websites, state agency datasets, and field documentation. No outside sources are required to establish the conflict.

Lee County Parks Classifications

- Lee County's Parks and Recreation website (leegov.com/parks/beaches/bocabeach) lists "Boca Grande Beach Accesses" as a County parks facility. Listed amenities include Beach Access, Free Parking, and Paddlecraft Landing/Launch. Every numbered Gulf-side street from 1st through 19th appears on that list. As of June 3, 2026, the page still lists Free Parking as an amenity — ten months after 25-16 converted most of those streets to permit-only. The page also notes under Closures: "5th Street Beach Access — Temporarily Closed."
- Ordinance 18-12 is linked directly in the Parks & Recreation navigation menu on that same page — confirming it as the governing parks ordinance for these facilities.
- Lee County's Find My Park GIS system lists each numbered street individually as a "Boca Grande Beach Access" entry with its own address and park facility record.
- Lee County Parks staff — Timothy Bonisolli, Supervisor Parks & Recreation — is listed as the facility contact, confirming these are actively managed Parks department facilities, not incidental road infrastructure.
- Lee County's official County Parks and Preserves GIS dataset — the county's maintained administrative inventory of all 231 parks and preserves — classifies all 26 Boca Grande Gulf-side beach access streets as TYPE: Park, Department: Parks-North District, Maintenance: Lee County Parks & Recreation, with named Supervisor Joseph Wier. The same dataset classifies Wheeler Road Community Park and the Boca Grande Park and Community Center using identical fields. Lee County cannot selectively discredit records from its own maintained park inventory. The dataset was downloaded June 15, 2026 and is publicly accessible

at:
https://maps.leegov.com/datasets/1678e170f3864d558dddd419882c53b1_0/explore?location=26.751358%2C-82.260427%2C16

Hours

Dawn to Dusk

Closures

5th Street Beach Access - Temporarily Closed

Amenities

Beach Access

Free Parking

Paddlecraft Landing/Launch

News

For updated Parking Information visit www.leegov.com/parking

Lee County Parks & Recreation website (leegov.com/parks/beaches/bocabeach), captured June 3, 2026. Amenities listed: Beach Access, Free Parking, Paddlecraft Landing/Launch. Closures: 5th Street Beach Access — Temporarily Closed. News: “For updated Parking Information visit www.leegov.com/parking.” Free Parking remains a listed amenity ten months after 25-16 converted most of these streets to permit-only.

State and Federal Records

- A 2018 FDEP beach funding application signed by Lee County Operations Manager Steve Boutelle under a written certification that all information provided was true and complete listed the numbered beach access streets as public beach access points with specific parking space counts. Those counts were used to calculate eligible shoreline footage for federal and state cost-share funding. The parking was not incidental — it was the basis for federal eligibility.
- Florida’s Public Beach Access Sites dataset (ca.dep.state.fl.us/mapdirect) independently lists the numbered beach access streets as Florida Public Beach Access Sites under Lee County, with specific parking space counts documented for each location. Space counts confirmed in the dataset include 45 spaces at 7th Street West, 17 spaces at 4th Street, 9 spaces at 10th Street, and 50 feet of frontage at 13th Street, among others. As of June 2, 2026, these records remain unchanged — the state of Florida still officially records public parking spaces at these streets, ten months after 25-16 converted them to permit-only.
- The Florida Beach Access Guide, a separate FDEP dataset, lists the same numbered Boca Grande beach access streets as Coastal Access Sites with parking — independently confirming parking as a documented feature of these locations.

- 19th Street East is a designated Great Calusa Blueway Paddling Trail Access point — a state-recognized public recreational facility. The street is largely converted to permit-only parking under 25-16, with a small remaining public area at the water's edge serving the kayak launch, as confirmed by field documentation on June 4, 2026.

Lee County Parks Infrastructure at These Streets

Lee County Parks & Recreation branded infrastructure was documented at a sampling of beach access streets on June 4, 2026. Lee County Parks & Recreation branded trash receptacles — bearing the Parks & Recreation logo and leeparks.org, identifying them as Parks department assets rather than generic county property — were confirmed at Banyan Street, 9th Street, 3rd Street, and 17th Street. Field photographs include visible date and time watermarks. Additional streets were not inspected on this date.

The Physical Signage Chain

Lee County Parks & Recreation's own physical signs document the parks ordinance history of these locations. The signage chain spans from the original parks ordinance through its 2018 replacement to the current conflict between 18-12 and 25-16.

At these beach access locations, Lee County Parks & Recreation rules signs citing the governing parks ordinance are posted alongside trash receptacles carrying the Parks & Recreation logo. The vehicle exclusion line marks the boundary beyond which motor vehicles are not permitted, but the entire street functions as the access facility — the parking, the exclusion boundary, and the beach access point are all components of the same County-classified beach access location.

Historical: Lee County Parks Signs at Street Entrances in 2024

Google Street View captures from May 2024 document that Lee County Parks & Recreation signs bearing the Parks & Recreation logo were posted at the entrances to the numbered beach access streets before 25-16 was adopted in August 2025. The image below is representative of the signage present across multiple streets.



7th Street West — May 2024, Google Street View. Lee County Parks & Recreation sign with Parks logo at the street entrance: “P / NO FACILITIES / DO NOT BLOCK DRIVEWAY / PARALLEL PARKING ONLY.” Representative of signage present at the numbered beach access streets before Ordinance 25-16 was adopted August 2025.

Historical: A Parks Ordinance Physically Posted at a Beach Access Street

A Google Street View historical capture documents a sign at the 19th Street East kayak launch — classified by Lee County as a Boca Grande Beach Access facility — reading “PUBLIC PARKING / PARK ORD. 06-26 AS AMENDED.” This establishes that parks ordinance authority was physically posted at Beach Access classified facilities on Gasparilla Island under the prior ordinance. That sign is no longer present as of June 4, 2026.

Current: Ordinance 18-12 Posted at Beach Access Streets — June 4, 2026

Field photographs taken June 4, 2026 with visible date and time watermarks confirmed Lee County Parks & Recreation rules signs citing “Ordinance 18-12 (as amended)” at a sampling of beach access streets. Additional streets were not inspected on this date.

At 9th Street West, a Lee County Parks & Recreation rules sign clearly cites “Ordinance 18-12 (as amended)” — the same governing ordinance that 25-16 never mentioned — with beach visitors present in the background.



9th Street West — June 4, 2026, 1:28 PM. Lee County Parks & Recreation rules sign clearly reading “Ordinance 18-12 (as amended).” Beach visitors visible in background. Posted at a street converted to permit-only under Ordinance 25-16.

Wheeler Road Community Park, the island’s primary County park facility, also currently posts “Ordinance 18-12 (as amended)” — confirming 18-12 as the governing parks ordinance for Lee County park facilities on Gasparilla Island.



Wheeler Road Community Park — June 4, 2026, 2:26 PM. Lee County Parks & Recreation sign clearly reading “Ordinance 18-12 (as amended).” The island’s primary County park facility confirms 18-12 as the governing parks ordinance on Gasparilla Island.

Current: 18-12 and 25-16 at the Same Location — Banyan Street

At Banyan Street, field documentation on June 4, 2026 captured the conflict at a single location. One pole, positioned between two Lee County Parks & Recreation trash receptacles, carries both a Lee County Parks rules sign citing “Ordinance 18-12 (as amended)” at the top and a green “BY PERMIT ONLY — ORD 25-16” permit sign below it. Ordinance 18-12 — which prohibits permits that restrict general public use of a park — and Ordinance 25-16 — which creates a permit-only system — are posted on the same pole, neither acknowledging the other.



Banyan Street — June 4, 2026, 2:12 PM. One pole between two Lee County Parks & Recreation trash receptacles carries a Lee County Parks rules sign citing “Ordinance 18-12 (as amended)” above a green “BY PERMIT ONLY / ORD 25-16” permit sign. Gulf of Mexico visible behind. Both ordinances posted at the same location, neither acknowledging the other.

Current: Ordinance 06-26 Still Posted at 17th Street — Eight Years After Repeal

At 17th Street, a Lee County Parks & Recreation rules sign currently cites “Ordinance 06-26 (as amended)” — an ordinance fully repealed in 2018 by Ordinance 18-12. Ordinance 06-26 has been legally dead for eight years. It remains posted at a beach access street where \$200 citations are being issued under Ordinance 25-16.



17th Street West — June 4, 2026, 1:22 PM. Lee County Parks & Recreation rules sign clearly reading “Ordinance 06-26 (as amended).” Ordinance 06-26 was fully repealed in 2018 and replaced by Ordinance 18-12. This sign remains posted eight years after repeal at a street where \$200 citations are being issued under Ordinance 25-16.

The 5th Street Tell

5th Street Beach Access is the only beach-access location that did not become permit-only under 25-16. It was designated as a time-limited public zone instead. When the official Agenda Item Report for Ordinance 25-16 addressed 5th Street Beach Access, it cited “Lee County Parks and Recreation Ordinance 06-26, as amended” as the authority for imposing fees, tow-away zones, and time limits.

Ordinance 06-26 was fully repealed in 2018 and replaced by Ordinance 18-12. A repealed ordinance cannot be amended. Lee County cited it anyway, in the official Agenda Item Report filed with the Florida Secretary of State, reviewed and approved by County Attorney Richard Wesch — the same attorney who had correctly cited 18-12 as the operative parks ordinance six weeks earlier in Ordinance 25-14 — along with Deputy County Attorney Michael Jacob and attorney Lauren Schaefer.

The County Attorney’s office knew 18-12 was the operative parks ordinance — it had correctly cited it six weeks earlier in Ordinance 25-14, a smoking and vaping amendment to 18-12 approved June 5, 2025. Six weeks later, the 25-16 package cited the repealed 06-26 at 5th Street and omitted 18-12 entirely across fourteen County-classified beach-access facilities.

A January 2026 scrivener’s error correction to 25-16 fixed a different numerical error using the County’s own correction mechanism — and left the 06-26 citation untouched. The inadvertence defense is closed by Lee County’s own paperwork.

The practical effect of citing 06-26 instead of 18-12 was to avoid the conflicts that 18-12 would have raised. Ordinance 06-26 Section 4.3 allowed permits unless the activity would “interfere with or detract from” general public enjoyment — an arguable standard. Ordinance 18-12 Section 4.3 prohibits permits where the activity would “restrict or prohibit” general public use. They chose the dead ordinance because the living one said no.

The 5th Street citation also establishes a principle Lee County cannot escape: by citing any parks ordinance at one beach access facility in the 25-16 record, Lee County acknowledged that parks ordinance authority was required to regulate parking at these locations. That acknowledgment applies equally to the fourteen other County-classified beach access facilities where the 25-16 record cited no parks ordinance at all.

A Lee County Parks & Recreation sign posted at 5th Street Beach Access directs visitors to leeparks.org for information about “other beach access locations.” Lee County Parks installed this sign at the location the 25-16 record cited as requiring parks ordinance authority, identifying it as a Parks & Recreation facility and connecting it to all other beach access locations on the island through their own Parks website.



5th Street Beach Access — June 4, 2026, 1:38 PM. Lee County Parks & Recreation Temporary Ramp Notice sign directing visitors to leeparks.org for information about ‘other beach access locations.’ Lee County Parks & Recreation logo visible bottom right. Posted at the location the 25-16 Agenda Item Report cited as requiring parks ordinance authority.

Why Was 18-12 Never Cited Anywhere in the 25-16 Record?

Open Shores conducted a search of the complete 25-16 record — including the March 2025 Agenda Item Report, the April 1, 2025 BCC meeting transcript, and the August 5, 2025 official state filing — and found zero references to Ordinance 18-12. The same

search found nine references to Ordinance 06-26, all in connection with 5th Street operations.

Citing 18-12 anywhere in the 25-16 record would have created cascading problems:

- For the numbered streets: Section 4.3 prohibits permits that restrict general public use. Acknowledging 18-12 existed meant acknowledging the conflict existed — and Lee County had no answer to it.
- For the fee and permit structure: 18-12 requires fees through the Administrative Code process. 25-16 did not follow that process. Citing 18-12 would have exposed that gap on the face of the ordinance.
- For Lee County Parks itself: The Parks department publishes 18-12 as the governing standard on its own website, posts 18-12 on its own signs at the beach access streets, and tells users to abide by Ordinance 18-12. Citing 18-12 in 25-16 would have forced a direct confrontation between what Parks represents these locations to be and what the ordinance was doing to them. The ordinance team and the Parks department were operating in entirely separate worlds. The solution was to keep 18-12 out of the 25-16 record entirely.

How Lee County Will Likely Respond

Lee County has two available arguments. Neither holds up cleanly against the record.

- Argument 1 — These are road rights-of-way, not parks: Lee County cannot easily characterize these as ordinary road shoulders after its own Parks website, GIS system, state and federal access records, and physical Parks signs all treat them as beach-access park facilities. Lee County cannot simultaneously represent these locations as public beach-access facilities with parking to federal agencies and argue they are ordinary road rights-of-way when the classification becomes inconvenient.

The County Parks and Preserves GIS dataset forecloses this argument entirely. All 26 beach access streets are classified TYPE: Park in the same 231-record administrative inventory that classifies Wheeler Road Community Park and the Boca Grande Park and Community Center. A county cannot argue that facilities in its own official parks inventory are not parks.

- Argument 2 — The later specific ordinance controls: If 25-16 fully superseded 18-12, no parks ordinance citation was needed anywhere in the 25-16 record. The Agenda Item Report cited one anyway — at 5th Street — implicitly acknowledging that parks ordinance authority was required for at least some of the regulated locations. That acknowledgment undermines the claim that 25-16 operated independently of 18-12 across the board.

There is a further problem with the “later ordinance controls” argument. Ordinance 25-16 Section Two contains its own conflicts clause: “Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.” Ordinance 18-12 contains the identical provision in Section XVI. By the plain language

of both ordinances' own conflicts clauses, 18-12's public access standard controls where the two conflict. Lee County's own ordinance resolves the conflict against itself.

★ POTENTIAL BOCA BEACON ARTICLE BEGINS BELOW ★

Why Didn't Lee County Mention Ordinance 18-12?

Public records raise questions about Boca Grande's beach-access parking restrictions

When Lee County adopted Ordinance 25-16 last August, the County converted most of Boca Grande's Gulf-side numbered streets into residential permit-only parking zones. The County has broad authority to regulate parking under Chapter 28 of the Lee County Code and Chapter 125, Florida Statutes. The narrower question raised by public records is why the County did not reference or address Ordinance 18-12 — the County's current Parks and Recreation Ordinance — when regulating locations the County itself classifies as public beach-access facilities.

County Records Classify the Numbered Streets as Beach-Access Facilities

Lee County's Parks and Recreation website lists the "Boca Grande Beach Accesses" as a County parks facility with Free Parking listed as an amenity. The locations include 1st Street, Banyan Street, 3rd Street, 4th Street, 5th Street, 7th Street, 9th Street, 10th Street, 11th Street, 12th Street, 13th Street, 14th Street, 17th Street, and 19th Street. As of June 3, 2026, that page still lists Free Parking as an amenity — ten months after 25-16 converted most of those streets to permit-only.

State records reinforce this. Florida's Public Beach Access Sites dataset still records public parking spaces at the numbered Boca Grande streets as of June 2026. The Florida Beach Access Guide, a separate FDEP dataset, lists the same streets as Coastal Access Sites with parking.

Lee County's own County Parks and Preserves GIS dataset — the county's official administrative inventory of all 231 parks and preserves — independently classifies all 26 Boca Grande Gulf-side beach access streets as TYPE: Park, maintained by Lee County Parks & Recreation. The same dataset classifies Wheeler Road Community Park and the Boca Grande Park and Community Center using identical fields. The dataset is publicly accessible at maps.leegov.com.

Beach-Funding Records Counted Street Parking as Public Access

In a 2018 FDEP beach funding application signed by Lee County Operations Manager Steve Boutelle under a written certification that all information provided was true and complete, the County listed numbered Boca Grande streets as public beach access points with specific parking space counts. Those counts were used to calculate eligible

At Banyan Street, a single pole positioned between two Lee County Parks & Recreation trash receptacles carries both an 18-12 rules sign and a green “BY PERMIT ONLY — ORD 25-16” permit sign. Both ordinances posted at the same location, neither acknowledging the other.

in 2018. A repealed ordinance cannot be amended. The other numbered streets were regulated solely under Ordinance 25-16, with no reference to any parks ordinance.

The practical effect of citing 06-26 instead of 18-12 was to avoid the conflicts that 18-12 would have raised — including its prohibition on permits that restrict general public use, its Administrative Code fee requirements, and its explicit ADA compliance commitment. The County has never publicly explained why 5th Street required a parks ordinance reference while the other fourteen County-classified beach-access facilities did not.

Chapter 28 and Chapter 125 Do Not Resolve the Question

Lee County may argue that Ordinance 25-16 was adopted under Chapter 28 of the Lee County Code, using general County authority under Chapter 125, Florida Statutes. That may explain the County's power to regulate parking generally. It does not explain why the County did not mention or address its own Parks and Recreation Ordinance when regulating locations the County itself identifies as public beach-access facilities with parking.

The Unanswered Question

This analysis does not assert that Ordinance 25-16 is invalid in its entirety. It may continue to govern downtown Boca Grande, Gilchrist Avenue, East Railroad Avenue, and other areas where parking regulation is not tied to County-recognized beach-access facilities. Those areas are separate from this issue.

The unresolved question is specific: Why didn't Lee County mention Ordinance 18-12 when converting numbered streets identified in County records as Boca Grande public beach-access facilities with parking into residential permit-only zones? Until Lee County addresses that question, the legal and policy basis for applying 25-16 to Boca Grande's numbered beach-access facilities remains unsettled.

Sources

- Lee County Parks and Recreation website (leegov.com/parks/beaches/bocabeach), captured June 3, 2026
- Lee County Find My Park GIS system (leegov.com/parks)
- Lee County County Parks and Preserves GIS dataset (maps.leegov.com/datasets/1678e170f3864d558ddddd419882c53b1_0), downloaded June 15, 2026 — 26 Boca Grande Beach Access records, all classified TYPE: Park, Maintenance: Lee County Parks & Recreation, Department: Parks-North District, Supervisor: Joseph Wier. Wheeler Road Community Park and Boca Grande Park and Community Center appear in the same 231-record dataset.
- Florida Public Beach Access Sites dataset (ca.dep.state.fl.us/mapdirect), captured June 2, 2026
- Florida Beach Access Guide (fdep.maps.arcgis.com), captured June 2, 2026

- FDEP FY2019/20 Local Government Funding Request, Beach Projects Application, signed by Steve Boutelle under written certification of accuracy, July 30, 2018
- Lee County Ordinance 18-12 (Section XVI conflicts clause; Sections 3.1, 4.1, 4.3, 4.7); Lee County Ordinance 06-26; Lee County Ordinance 25-16 (Section Two conflicts clause)
- Lee County Ordinance 25-14 (smoking and vaping amendment to 18-12, approved June 5, 2025 — confirming 18-12 as operative parks ordinance six weeks before 25-16 was adopted)
- Agenda Item Report for Ordinance 25-16, Item 86 (August 5, 2025 BCC meeting); March 2025 Agenda Item Report; April 1, 2025 BCC meeting transcript
- January 5, 2026 Scrivener's Error Memo, Office of County Manager, Lee County
- Lee County Administrative Code AC-2-27 (adopted September 16, 2025)
- Boca Beacon, February 20, 2025 — Wheeler Road Community Park reopening after Hurricane Milton recovery operations
- Google Street View historical captures: 19th Street East (06-26 sign), 7th Street West entrance (Parks signs, May 2024)
- Field photographs with visible date and time watermarks: 5th Street Beach Access (1:38 PM and 1:40 PM), Banyan Street (2:12 PM), 9th Street West (1:28 PM), 17th Street West (1:22 PM), 3rd Street West, 1st Street West, Wheeler Road Community Park (2:26 PM), 19th Street East (2:39–2:40 PM) — all June 4, 2026. Additional beach access streets not inspected on this date.